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NORTHROP GRUMMAN SYSTEMS  
14 CORPORATION

15 UNITED STATES DISTRICT COURT  
16 CENTRAL DISTRICT OF CALIFORNIA  
17

18 KST DATA, INC.,  
19  
20 Plaintiff,  
21  
22 v.  
23 NORTHROP GRUMMAN SYSTEMS  
CORPORATION and DOES 1 through  
24 10,  
25  
26 Defendants.  
27  
28

Case No. 2:17-cv-5125-MWF-PJW

**NORTHROP GRUMMAN  
SYSTEMS CORPORATION'S  
ANSWER TO THE FIRST  
AMENDED COMPLAINT**

Pursuant to the Court’s Order granting the partial motion to dismiss filed by Defendant Northrop Grumman Systems Corporation (“Northrop Grumman”), *see* Dkt. 36, Northrop Grumman, by and through undersigned counsel, hereby answers the First Amended Complaint (“FAC”) of Plaintiff KST Data, Inc. (“KST”) as follows:

1. Northrop Grumman admits that KST is the Plaintiff and that Northrop Grumman is the Defendant in this action.

### **NATURE OF THE ACTION<sup>1</sup>**

2. Paragraph 2 of the FAC asserts legal conclusions to which no response is required. To the extent ¶2 contains factual allegations, Northrop Grumman admits only that the FAC asserts a breach of contract action under Corporate Award #3263 (the “Award”) between Northrop Grumman and KST. Northrop Grumman denies any remaining allegations to which responses may be required.

### **THE PARTIES**

3. Northrop Grumman lacks knowledge or information sufficient to form a belief as to the truth of the allegations of ¶3 of the FAC and therefore denies them.

4. Northrop Grumman admits the allegations in ¶4 of the FAC.

5. Paragraph 5 of the FAC does not assert allegations to which a response is required. To the extent a response is deemed required, Northrop Grumman lacks knowledge or information sufficient to form a belief as to the truth of the allegations of ¶5 and therefore denies them.

### **JURISDICTION AND VENUE**

6. Paragraph 6 of the FAC asserts a legal conclusion to which no response is required. To the extent ¶6 contains factual allegations, Northrop Grumman admits only that the FAC purports to state causes of action over which

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<sup>1</sup> Although section headings in the FAC are not factual allegations that require a response, Northrop Grumman includes the section headings in substantially the same form as found in the FAC.

1 this Court has jurisdiction pursuant to 28 U.S.C. § 1332 and 28 U.S.C. § 1441(b).

2 7. Paragraph 7 of the FAC asserts legal conclusions to which no response  
3 is required. To the extent ¶7 contains factual allegations, Northrop Grumman  
4 admits only that it conducts business in California and that Section 35 of the Award  
5 speaks for itself.

6 8. Paragraph 8 of the FAC asserts legal conclusions to which no response  
7 is required.

### 8 **ALLEGATIONS**

9 9. Northrop Grumman admits that KST is a re-seller of computer  
10 equipment. Northrop Grumman lacks knowledge or information sufficient to form  
11 a belief as to the truth of the remaining allegations in ¶9 and therefore denies them.

12 10. Northrop Grumman admits only that some of its affiliated business  
13 entities design, develop, and /or manufacture defense electronics and systems.

14 11. Northrop Grumman admits that it generally relies on more than one  
15 vendor for the products and services it needs and denies that it currently purchases  
16 products and services from KST. The remaining allegations in ¶11 of the FAC are  
17 too vague and ambiguous for Northrop Grumman to have sufficient knowledge or  
18 information to form a belief as to their truth, and therefore Northrop Grumman  
19 denies them.

20 12. Northrop Grumman admits that, under the Award, KST provided  
21 various products to Northrop Grumman.

22 13. Northrop Grumman denies the allegations of ¶13.

23 14. Northrop Grumman denies the allegations of ¶14.

24 15. Northrop Grumman denies the allegations of ¶15.

25 16. Northrop Grumman admits that it provided nonbinding forecasts to  
26 KST pursuant to the Award. Northrop Grumman lacks knowledge or information  
27 sufficient to form a belief as to the truth of any remaining allegations in ¶16 and  
28 therefore denies them.

1           17. Northrop Grumman lacks knowledge or information sufficient to form  
2 a belief as to the truth of the allegations of ¶17 and therefore denies them.

3           18. Northrop Grumman lacks knowledge or information sufficient to form  
4 a belief as to the truth of the allegations of ¶18 and therefore denies them.

5           19. Northrop Grumman lacks knowledge or information sufficient to form  
6 a belief as to the truth of the allegations of ¶19 and therefore denies them.

7           20. Northrop Grumman denies the allegations in ¶20.

8           21. Northrop Grumman denies the allegations of ¶21.

9           22. Northrop Grumman admits the allegations in ¶22.

10          23. Northrop Grumman admits the allegations in ¶23.

11          24. Paragraph 24 of the FAC asserts a legal conclusion to which no  
12 response is required. To the extent ¶24 contains factual allegations, Northrop  
13 Grumman denies that Section 3.1 of the Award references “purchasing volume,”  
14 “regular tracking” of “equipment requirements and delivery schedules.”

15          25. Paragraph 25 of the FAC asserts a legal conclusion to which no  
16 response is required. Northrop Grumman further states that the Award speaks for  
17 itself. Northrop Grumman denies the allegations in ¶25 to the extent they imply  
18 that Section 4.6 of the Award applied to the circumstances of this case.

19          26. Northrop Grumman states that Section 6.4 of the Award, from which  
20 Plaintiff selectively quotes, speaks for itself. Northrop Grumman denies the  
21 allegations in ¶26 to the extent they imply that the Award was terminated for  
22 convenience.

23          27. Paragraph 27 of the FAC asserts legal conclusions to which no  
24 response is required. Northrop Grumman further states that the Award speaks for  
25 itself. To the extent a response is required, Northrop Grumman denies the  
26 allegations in ¶27 to the extent they imply that the Award did not specify the  
27 manner in which a termination for convenience was to be effected.

28          28. Northrop Grumman admits that it provided KST nonbinding forecasts

1 as required by the Award. Northrop Grumman lacks knowledge or information  
2 sufficient to form a belief as to the truth of any remaining allegations of ¶28 and  
3 therefore denies them.

4 29. Northrop Grumman lacks knowledge or information sufficient to form  
5 a belief as to the truth of the allegations of ¶29 and therefore denies them.

6 30. Northrop Grumman lacks knowledge or information sufficient to form  
7 a belief as to the truth of the allegations of ¶30 and therefore denies them.

8 31. Northrop Grumman lacks knowledge or information sufficient to form  
9 a belief as to the truth of the allegations of ¶31 and therefore denies them.

10 32. Northrop Grumman lacks knowledge or information sufficient to form  
11 a belief as to the truth of the allegations of ¶32 and therefore denies them.

12 33. Northrop Grumman denies the allegations of ¶33.

13 34. Paragraph 34 of the FAC asserts a legal conclusion to which no  
14 response is required. To the extent a response is required, Northrop Grumman  
15 denies the allegations as incorrectly implying that the Award required Northrop  
16 Grumman to place orders with KST.

17 35. Paragraph 35 of the FAC asserts a legal conclusion to which no  
18 response is required. To the extent a response is required, Northrop Grumman  
19 denies the allegations to the extent they imply that the Award required Northrop  
20 Grumman to place orders with KST.

21 36. Paragraph 36 of the FAC asserts a legal conclusion to which no  
22 response is required. To the extent a response is required, Northrop Grumman  
23 denies the allegations to the extent they imply that the Award required Northrop  
24 Grumman to place orders with KST.

25 37. Northrop Grumman denies that it “repeatedly advised KST that [it]  
26 would issue orders to KST when the suspension was lifted.” Northrop Grumman  
27 lacks knowledge or information sufficient to form a belief as to the truth of any  
28 remaining allegations of ¶37 and therefore denies them.

1           38. Northrop Grumman denies that it “continued to indicate to KST that  
2 orders would be coming soon.” Northrop Grumman lacks knowledge or  
3 information sufficient to form a belief as to the truth of any remaining allegations of  
4 ¶38 and therefore denies them.

5           39. Northrop Grumman admits that it paused placing orders with KST  
6 pending the outcome of the federal criminal investigation into KST, and lacks  
7 knowledge or information sufficient to form a belief as to the truth of the remaining  
8 allegations of ¶39 and therefore denies them.

9           40. Northrop Grumman lacks knowledge or information sufficient to form  
10 a belief as to the truth of the allegations of ¶40 and therefore denies them.

11           41. Northrop Grumman admits only that KST sent a letter dated April 20,  
12 2016 and further states that the letter speaks for itself.

13           42. Paragraph 42 of the FAC asserts legal conclusions to which no  
14 response is required. To the extent ¶42 requires a response, Northrop Grumman  
15 admits only that it paused placing orders with KST pending the outcome of the  
16 ongoing criminal federal investigation, and denies the remaining allegations.

17           43. Northrop Grumman admits only that it sent a letter to KST dated June  
18 6, 2016 and states that the letter speaks for itself.

19           44. Paragraph 44 of the FAC asserts a legal conclusion to which no  
20 response is required. To the extent ¶44 contains factual allegations, Northrop  
21 Grumman admits that KST sent a letter dated June 8, 2016 letter, and states that the  
22 letter speaks for itself.

23           45. Northrop Grumman admits only that it sent a letter to KST dated July  
24 28, 2016 and further states that the letter speaks for itself.

25           46. The allegations in ¶46 are unintelligible. Therefore, Northrop  
26 Grumman lacks knowledge or information sufficient to form a belief as to the truth  
27 of the allegations and denies them.

28           47. Paragraph 47 of the FAC asserts legal conclusions to which no

1 response is required. To the extent ¶47 requires a response, Northrop Grumman  
2 lacks knowledge or information sufficient to form a belief as to the truth of the  
3 allegations concerning KST's holding of units, and denies the remaining allegations  
4 in this paragraph.

5 48. Northrop Grumman admits that KST hired Mr. Thomas Shelman, a  
6 former Northrop Grumman employee and officer, to serve as its representative in  
7 speaking with Northrop Grumman. Northrop Grumman lacks knowledge or  
8 information sufficient to form a belief as to the truth of any remaining allegations of  
9 ¶48 and therefore denies them.

10 49. Northrop Grumman denies the allegation in ¶49 that it owes KST any  
11 amount, let alone an amount in excess of \$5 million.

12 50. Northrop Grumman denies the allegation in ¶50 that it owed KST any  
13 money. The remaining allegations in this paragraph 50 of the FAC assert a legal  
14 conclusion to which no response is required.

## 15 **FIRST CAUSE OF ACTION**

### 16 **BREACH OF CONTRACT**

17 51. Northrop Grumman incorporates by reference its responses to ¶¶1-50  
18 of the FAC herein.

19 52. Paragraph 52 asserts a legal conclusion to which no response is  
20 required.

21 53. Paragraph 53 of the FAC asserts legal conclusions to which no  
22 response is required.

23 54. Northrop Grumman denies the allegations in ¶54.

24 55. Northrop Grumman denies the allegations in ¶55.

## 25 **SECOND CAUSE OF ACTION**

### 26 **BREACH OF GOOD FAITH AND FAIR DEALING**

27 56. Northrop Grumman incorporates by reference its responses to ¶¶1-55  
28 of the FAC herein.

1 57. Northrop Grumman denies the allegations in ¶57.

2 58. Northrop Grumman denies the allegations in ¶58.

3 59. Northrop Grumman denies the allegations in ¶59.

4 60. Northrop Grumman denies the allegations in ¶60.<sup>2</sup>

5 **PRAYER FOR RELIEF**

6 Northrop Grumman denies that KST is entitled to any relief.

7 **AFFIRMATIVE DEFENSES**

8 Northrop Grumman asserts the following affirmative defenses. Northrop  
9 Grumman reserves the right to assert any additional defenses to KST's claims as  
10 they become known during the course of this litigation.

11 **First Affirmative Defense**

12 KST's claims are barred, in whole or in part, by the doctrine of estoppel.

13 **Second Affirmative Defense**

14 KST's claims are barred, in whole or in part, by the doctrine of laches.

15 **Third Affirmative Defense**

16 KST's claim for breach of contract is barred, in whole or in part, by the  
17 doctrine of waiver.

18 **Fourth Affirmative Defense**

19 KST's claim for breach of good faith and fair dealing is barred, in whole or  
20 in part, by the doctrine of waiver.

21 **Fifth Affirmative Defense**

22 KST's claims are barred, in whole or in part, by its unclean hands.

23 **Sixth Affirmative Defense**

24 KST's claims are barred, in whole or in part, because any actions allegedly  
25 committed by Northrop Grumman were justified.

26 **Seventh Affirmative Defense**

27 <sup>2</sup> As KST's third cause of action for promissory estoppel has been dismissed  
28 without leave to amend, Northrop Grumman does not provide a response to ¶¶61-  
64 of the FAC.



1 KST failed to mitigate or minimize its damages.

2 **Eighth Affirmative Defense**

3 Northrop Grumman hereby reserves its right to assert additional affirmative  
4 defenses as appropriate and as revealed through discovery.

5 **Ninth Affirmative Defense**

6 KST has failed to state a claim upon which relief can be granted.

7 **RELIEF REQUESTED BY NORTHROP GRUMMAN**

8 WHEREFORE, Northrop Grumman prays that the Court enter judgment  
9 against KST and in favor of Northrop Grumman as follows:

10 A. Dismiss the FAC with prejudice;

11 B. Deny all remedies and relief that KST seeks in the FAC;

12 C. Award Northrop Grumman its costs in this action;

13 D. Award Northrop Grumman its reasonable attorneys' fees to the extent  
14 permitted by law; and

15 E. Award Northrop Grumman such other and further relief as this Court may  
16 deem just and proper.

17  
18  
19 DATED: December 4, 2017

**PERKINS COIE LLP**

20  
21 By: /s/ Bruce V. Spiva

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